

**FILE COPY****INTEROFFICE CORRESPONDENCE****000018496**

DATE: April 22, 1991

TO: Steve M. Nesta, NEPA, Den. West, 273-6076

FROM: Karen S. Lewis, NEPA, Den. West, 273-6005

SUBJECT: DOE DIRECTION FOR OPERABLE UNIT (OU) NO. 2 COMPLIANCE WITH  
FLOODPLAINS/WETLANDS ASSESSMENT REQUIREMENTS

On April 18, 1991 EG&G NEPA personnel were responding to two federal requirements addressing the issues of floodplains/wetlands requirements. The first requirement is in 33 CFR Parts 320 through 330 (Army Corps of Engineers), which cover Section 404 of the Clean Water Act. Section 404 regulates the placement of fill in the waters of the United States (US), which wetlands are included in. A Nationwide permit currently exists for the waters of the U.S., but official notification of inclusion or exemption is still needed by the Army Corps of Engineers for a project which may impact a wetlands area. Scott McGlochlin of NEPA wrote notification memos on OU No. 2 for DOE to transmit to the Corps to complete this requirement, along with documentation to address the second requirement.

The second federal requirement dealt with the issuance of a Notice of Wetlands/Floodplains Involvement under 10 CFR 1022 (Department of Energy). This requirement stipulates a floodplains/wetlands assessment will be conducted to identify impacts to these areas, or for actions which do not require an Environmental Impact Statement (EIS), DOE shall provide an opportunity for early public review through publication of a Public Notice. This notice shall be published in the *Federal Register* for 15 days prior to issuance of statement of findings. So as not to impact schedules, the notification and assessment were being written for DOE transmittal.

Later in the day of April 18, 1991, Scott Grace of RFO, DOE telephoned me and said both issues were now null issues. He expressed a desire to continue transmittal of documentation on the Section 404 issue with the Corps. Scott Grace had contacted Terry McKee of the Army Corps of Engineers and had received a verbal authorization to proceed with activities, but Scott wanted to follow up with the documentation trail by issuing the formal request of notification. Scott also talked with RFO, DOE legal counsel for an interpretation of the 10 CFR 1022 regulation and was told, based on 1022.4 definitions, that the action had to be in a wetlands, not merely adjacent to one. Based on these conversations Scott directed me to continue pursuing the Corps documentation but to disregard the 1022 documentation. After discussion with NEPA staff, I called Scott and left a message that EG&G would require a letter from RFO, DOE addressing these directions and until receipt of the letter, EG&G would continue to proceed with both formalized submittals to RFO, DOE.

A-0002-000961

I dropped off a copy of the draft documents to Scott Grace's and Patricia Powell's desk, later that same day and submitted the formal documentation to Erich Evered for signature the morning of April 19, 1991. To date, EG&G has still not received the letter identifying the RFO, DOE directions verbally given by Scott Grace. If you have any questions, I will be glad to discuss them with you.

cc:

T. C. Greengard

K. C. London

S. C. McGlochlin

R. S. Roberts